

EXHIBIT D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

4 ANIBAL RODRIGUEZ, JULIEANNA
5 MUNIZ, ELIZA CAMBA, SAL CATALDO,
6 EMIR GOENAGA, JULIAN SANTIAGO,
7 HAROLD NYANJOM, KELLIE NYANJOM,
8 AND SUSAN LYNN HARVEY,
9 INDIVIDUALLY AND ON BEHALF OF ALL
10 OTHERS SIMILARLY SITUATED.

11 PLAINTIFFS.

NO. 3:20-CV-04688

13 GOOGLE LLC

DEFENDANT.

15 _____ /

17 | VIDEOTAPED DEPOSITION OF SUSAN HARVEY

18 *VIA REMOTE COUNSEL VIDEOCONFERENCE*

THURSDAY, OCTOBER 27, 2022

VOLUME I

22 STENOGRAPHICALLY REPORTED BY:

23 MEGAN F. ALVAREZ, RPR, CSR No. 12470

24 | JOB NO. 5516967

25 | PAGES 1 - 262

1	no, I haven't. It just makes it worse.	05:15:53
2	BY MR. MATEEN:	05:16:06
3	Q. Ms. Harvey, are you claiming a medical	05:16:55
4	injury in this lawsuit?	05:16:57
5	A. No. I -- I stated that was from before.	05:16:58
6	But this made it -- this has added on to it because	05:17:01
7	I didn't realize I'd been lied to the whole time.	05:17:05
8	Q. Since finding out about the actions	05:17:44
9	alleged in this lawsuit, have you changed any of	05:17:47
10	your actions?	05:17:50
11	MR. LEE: Vague.	05:17:55
12	THE WITNESS: Which actions would that be?	05:17:57
13	I don't understand.	05:17:59
14	BY MR. MATEEN:	05:18:02
15	Q. I can reask it.	05:18:02
16	After you found out about the actions that	05:18:16
17	you allege in this lawsuit, did you delete any apps?	05:18:18
18	A. I'm sure there's been apps that have went	05:18:23
19	off my phone because I switched phones. But I -- I	05:18:26
20	don't know. Maybe if I didn't use something	05:18:29
21	anymore, I would take it off. But I -- I was sort	05:18:31
22	of curious what -- what was going to be find out.	05:18:38
23	That's why I seeked attorneys.	05:18:41
24	Q. Did you investigate which apps use	05:18:49
25	Google Analytics for Firebase?	05:18:52

1	A. That's not for me to do.	05:18:54
2	Q. Who's that for?	05:19:02
3	A. That's for the attorneys and experts, not	05:19:03
4	me.	05:19:05
5	I don't know what Google's practice is. I	05:19:11
6	don't know who they talk to. I don't know which	05:19:12
7	ones they use. Why should I know that information?	05:19:13
8	I'm not trying to get their information. My	05:19:15
9	information is one that was given out.	05:19:17
10	Q. Sitting here today, do you know if any app	05:19:23
11	you've ever used uses Google Analytics for Firebase?	05:19:27
12	A. I'm sure quite a bit of them do.	05:19:32
13	Q. If you knew which apps use	05:19:34
14	Google Analytics for Firebase, would you delete	05:19:36
15	them?	05:19:39
16	A. Why don't we cut this short? Why doesn't	05:19:39
17	Google just fix the button? Then I wouldn't have to	05:19:42
18	delete those apps because I enjoy playing them.	05:19:44
19	Then there wouldn't be a problem, right? Because	05:19:48
20	they said they wouldn't do it in the first place, so	05:19:50
21	there shouldn't be a problem here.	05:19:53
22	Q. If, as you say Google, does not fix the	05:19:54
23	button, would you delete those apps?	05:19:57
24	A. I can't see a world that would happen in.	05:19:58
25	Q. You can't see a world where what would	05:20:02

1	happen in?	05:20:05
2	A. Google would keep taking the information	05:20:06
3	and not fix it. That's illegal. You can't take	05:20:08
4	information and tell somebody that you're not going	05:20:12
5	to.	05:20:14
6	I don't want anybody knowing what I do on	05:20:21
7	my phone.	05:20:23
8	Q. Imagine that the court in this case rules	05:20:33
9	that Google doesn't have to change its behavior, it	05:20:35
10	can keep doing what it's doing.	05:20:41
11	Would you then delete those apps?	05:20:44
12	A. I can't see the court ruling that. I	05:20:47
13	don't see that happening. Because they made a	05:20:49
14	statement that they weren't going to do it and I	05:20:54
15	would be in control, and it's a lie.	05:20:56
16	Q. Would you ever delete those apps?	05:21:06
17	MR. LEE: Objection. Vague.	05:21:09
18	THE WITNESS: If I didn't want to use	05:21:11
19	them.	05:21:13
20	BY MR. MATEEN:	05:21:16
21	Q. You wouldn't want to use them?	05:21:17
22	A. If I did not want to use them, I might	05:21:19
23	delete them.	05:21:21
24	But the real thing that needs to be fixed	05:21:22
25	is Google's promises. Don't make a promise if you	05:21:24

1	can't keep that promise. You can't figure out how	05:21:27
2	to do it, that's not my fault. They shouldn't have	05:21:30
3	made a promise in the first place.	05:21:34
4	Q. So I understand that you believe that a	05:21:35
5	court would not do this. But just imagine for the	05:21:39
6	possibility that you were wrong about what is and	05:21:44
7	isn't illegal and the court rules that from Google	05:21:47
8	doesn't have to change it's behavior.	05:21:52
9	Would you then delete those apps?	05:21:54
10	A. I can't believe that would ever happen.	05:21:57
11	Q. Ms. Harvey, I understand that you cannot	05:22:00
12	believe that it will happen, but imagine that it	05:22:01
13	does.	05:22:05
14	A. I -- I can't imagine that. Why -- why	05:22:06
15	would that happen? You can't make a promise, break	05:22:09
16	that promise, make money off people's data when they	05:22:12
17	said that they weren't going to do that, and -- and	05:22:17
18	it be okay. It's not okay.	05:22:19
19	Q. Ms. Harvey, for example, your last case	05:22:23
20	was dismissed on statute of limitations grounds.	05:22:25
21	Let's say that this case gets dismissed on statute	05:22:28
22	of limitations grounds.	05:22:32
23	In that case, would you delete these apps	05:22:34
24	off your phone?	05:22:38
25	A. It's not going to get dismissed for	05:22:40

1	statute of limitations. So I don't even have to	05:22:42
2	consider that, correct?	05:22:45
3	Q. Would you ever delete your Google account?	05:22:48
4	MR. LEE: Objection. Vague.	05:22:52
5	THE WITNESS: What other option do I have	05:22:55
6	on an Android device so I can use the Play Store?	05:22:57
7	MR. LEE: Can I get a time check?	05:23:11
8	THE VIDEO OPERATOR: 6:23.	05:23:19
9	MR. LEE: I'm sorry?	05:23:20
10	THE WITNESS: Six hours, 23 minutes.	05:23:22
11	MR. LEE: Thank you.	05:23:29
12	BY MR. MATEEN:	05:23:29
13	Q. Ms. Harvey, since filing this case, have	05:23:30
14	you used any apps differently than you did before?	05:23:33
15	A. No. I'm trying to find out what's going	05:23:38
16	on. It's being investigated right now. They're	05:23:40
17	checking everything out. So if I stopped using	05:23:46
18	those things, then nothing would be found out, would	05:23:49
19	it?	05:23:52
20	Q. Have you interacted with anyone in your	05:23:53
21	life any differently than before you filed your	05:23:55
22	lawsuit?	05:23:57
23	MR. LEE: Objection. Vague.	05:23:58
24	THE WITNESS: With who? I don't	05:24:02
25	understand.	05:24:04

1	BY MR. MATEEN:	05:24:05
2	Q. Have you communicated with anybody you	05:24:11
3	know differently?	05:24:15
4	MR. LEE: Objection. Vague.	05:24:17
5	BY MR. MATEEN:	05:24:18
6	Q. Have you communicated with anybody you	05:24:23
7	know differently since filing your lawsuit?	05:24:24
8	MR. LEE: Objection. Vague.	05:24:27
9	BY MR. MATEEN:	05:24:27
10	Q. Ms. Harvey, you can answer to the extent	05:24:36
11	that you are able to.	05:24:37
12	A. Who?	05:24:39
13	Q. Any person.	05:24:41
14	A. People that I know?	05:24:42
15	Q. Yes.	05:24:43
16	A. Why would I do that? They didn't do it.	05:24:44
17	They didn't make me a promise and break it.	05:24:48
18	Q. Have you taken any steps to protect	05:24:55
19	yourself from the alleged misconduct from Google?	05:24:57
20	A. I seeked a lawyer's advice. My	05:25:01
21	Web & App Activity is off. I was thinking the	05:25:06
22	information wasn't being collected and it was.	05:25:07
23	So, yes, I seeked a lawyer's advice.	05:25:10
24	Q. Since --	05:25:13
25	THE VIDEO OPERATOR: Excuse me. This is	05:25:16

1 the videographer. I made a mistake. It's 6:13. 05:25:16

2 Sorry. 05:25:18

3 MR. MATEEN: Thank you. 05:25:21

4 MR. LEE: We're going backwards in time? 05:25:22

5 Jesus. 05:25:24

6 BY MR. MATEEN: 05:25:26

7 Q. Since filing this suit, other than talking 05:25:29

8 to your lawyer, have you taken any steps to protect 05:25:32

9 your privacy against Google's alleged misconduct? 05:25:35

10 A. Well, they weren't supposed to be doing it 05:25:39

11 in the first place, so what could I take? What 05:25:40

12 steps could I take? 05:25:43

13 Q. Have you tried to take any steps? 05:25:46

14 A. What steps would those be? I still have 05:25:47

15 my Samsung phone. It's still Android. Google's 05:25:50

16 still doing it. And they said they wouldn't but 05:25:55

17 they are. 05:25:57

18 Web & App Activity has two options: On or 05:25:58

19 off. Mine was off, period. I did not turn that on. 05:26:02

20 So I'm a little bit confused by that. 05:26:05

21 But I seeked an attorney's advice and 05:26:08

22 we're here now. So I think I have taken steps. I 05:26:12

23 want it to stop. I want the button fixed. And I 05:26:16

24 don't want them to have my information. 05:26:20

25 Q. Have you made the -- have you made any 05:26:24

1 attempts to learn a different operating system? 05:26:25

2 A. I've explained that extensively why I have 05:26:30

3 to use Android with my father having dementia. 05:26:33

4 Q. Have you made any attempts to sign out of 05:26:42

5 any of your Google accounts on your Android device? 05:26:44

6 A. Now, why would I do that? Google's not 05:26:49

7 taking information, right? So why would I have to 05:26:51

8 sign out? 05:26:53

9 Q. You've alleged misconduct on the part of 05:27:01

10 Google and specifically that Google is taking 05:27:04

11 information. 05:27:07

12 And so I'm asking: After you filed your 05:27:08

13 complaint, have you taken any efforts to log out of 05:27:12

14 your Google accounts on your Android device? 05:27:18

15 A. Why would I log out? Is that so there's 05:27:21

16 no records of anything? It's already been done. 05:27:25

17 Q. Do you use your Samsung phone more or less 05:27:37

18 than when you filed this case? 05:27:42

19 MR. LEE: Mr. Mateen, she's -- she's 05:27:44

20 answered this question like six or seven times now. 05:27:44

21 MR. MATEEN: Not this specific one. 05:27:47

22 BY MR. MATEEN: 05:27:49

23 Q. Ms. Harvey, you can answer. 05:27:49

24 A. So that you understand, I love my phone. 05:27:50

25 I don't love Google's business practices and their 05:27:52

1	promises that they don't stand by.	05:27:56
2	Why wouldn't I use my phone that I	05:28:02
3	absolutely love? Why doesn't Google just stop doing	05:28:04
4	what they say they're not going to do?	05:28:08
5	BY MR. MATEEN:	05:28:11
6	Q. Have you tried to tell your dad to use his	05:28:12
7	phone differently or --	05:28:17
8	A. I've turned my dad's information off.	05:28:20
9	It's set the exact same way.	05:28:22
10	And to tell you the truth, do you know	05:28:25
11	what dementia is?	05:28:28
12	My dad's used that Samsung Galaxy 9.	05:28:34
13	That's why we got the same phone, so he wouldn't	05:28:38
14	have to relearn everything. It's impossible.	05:28:42
15	Q. Did you log your dad out of a Google	05:28:48
16	account on his Android phone?	05:28:51
17	A. No. I turned Web & App Activity off.	05:28:53
18	Q. Have you warned anyone in your life of	05:29:00
19	Google's privacy violations after filing this suit?	05:29:06
20	A. Not necessarily like you're stating. But	05:29:11
21	if somebody I know has Web & App Activity off, I let	05:29:14
22	them know, "Hey, I don't think that button works."	05:29:19
23	Q. Are you testifying that the harm you	05:29:27
24	allege is ongoing?	05:29:29
25	A. My information's still being taken. It's	05:29:31

1	still being saved. It's still being pulled	05:29:35
2	together. And there's still advertisements coming	05:29:38
3	out there. And it's still being gotten rid of, so	05:29:42
4	I'm thinking it's still being done.	05:29:46
5	Q. Are you currently suffering a privacy	05:29:49
6	violation?	05:29:52
7	MR. LEE: Objection to the form to the	05:29:53
8	extent it calls for a legal conclusion.	05:29:55
9	Answer if you can understand his question.	05:29:56
10	THE WITNESS: Does the button work or	05:30:00
11	doesn't it? If it doesn't work, that's a privacy	05:30:01
12	violation.	05:30:04
13	Why can't Google just say what they -- do	05:30:12
14	what they say they're going to do?	05:30:14
15	MR. MATEEN: Ms. Harvey, thank you for	05:30:23
16	your time. That's all we have for you today.	05:30:24
17	THE WITNESS: Okay.	05:30:27
18	MR. MATEEN: I know it's about been a long	05:30:28
19	day, so I appreciate you bearing with us all.	05:30:29
20	MR. LEE: Let me get five minutes just to	05:30:33
21	consult with my team. I may not have any questions,	05:30:35
22	but I just want to check. Okay?	05:30:39
23	MR. MATEEN: No problem.	05:30:41
24	THE VIDEO OPERATOR: Going off the record.	05:30:42
25	The time is 5:30 p.m.	05:30:42

1 CERTIFICATE OF REPORTER

2 I, the undersigned, a Certified Shorthand
3 Reporter of the State of California, do hereby
4 certify:

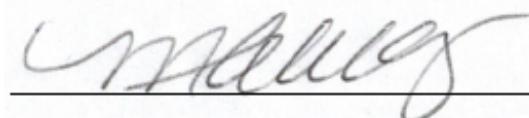
5 That the foregoing proceedings were taken
6 before me at the time and place herein set forth;
7 that any witnesses in the foregoing proceedings,
8 prior to testifying, were administered an oath; that
9 a verbatim record of the proceedings was made by me
10 using machine shorthand, which was thereafter
11 transcribed under my direction; and that the
12 foregoing is an accurate transcription thereof.

13 Further, that if the foregoing pertains to
14 the original transcript of a deposition in a federal
15 case, before completion of the proceedings, review
16 of the transcript [X] was [] was not requested.

17 I further certify that I am neither
18 financially interested in the action, nor a relative
19 or employee of any attorney of any party to this
20 action.

21 IN WITNESS WHEREOF, I have this date
22 subscribed my name.

23 DATED: November 11, 2022



24 MEGAN F. ALVAREZ

25 CSR No. 12470, RPR